

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WP(C).No. 26326 of 2007(H)

AGAINST THE ORDER IN EP. 522 /2006 IN
RCP.3/2004 of MUNSIFF'S COURT,CHAVAKKAD
.....

PETITIONER:

SUBRAMANIAN, AGED 48 YEARS,
S/O.KOORKAPARAMBIL NARAYANAN,
MANATHALA AMSOM DESOM, OF CHAVAKKAD TALUK.

BY ADV. SRI.P.RAMACHANDRAN

RESPONDENT:

SURESH, S/O.KANDARASSERI VELAYUDHAN,
MANATHALA AMSOM DESOM, CHAVAKKAD.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 26326 OF 2007-H

Dated 5th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner was the respondent in R.C.P.No.3/2004 before the Rent Control Court, Chavakkad. The Rent Controller allowed the petition under Section 11(2)(b) of the Kerala Buildings (Lease and Rent Control) Act, as per order dated 22.9.2006. The petitioner did not appeal nor availed the benefits of the provisions of Section 11(2)(c) of the said Act. So, E.P.No.522/2006 was filed by the landlord before the Munsiff's Court, Chavakkad. The court posted the application for effecting delivery on 4.9.2007. On the said date this Writ Petition is filed, praying that he may be given three months' time to shift his business from the petition schedule room, where he is running a ration shop. The petitioner points out that he has made alternate arrangements for shifting the ration shop. But, the said room is yet to be ready. So, if some time is not granted, the public will also be prejudiced.

2. This Court can interfere with the proceedings before a lower court or tribunal under Article 227 of the Constitution of India, if it is shown that the said proceedings are vitiated by an error of jurisdiction and the same has occasioned a failure of justice. We find that the executing court has acted within jurisdiction when it ordered delivery of the shop room, in execution of the order of the Rent Control Court, which has become final. The petitioner has allowed the order of the Rent Controller to become final and therefore, now he cannot cry when it is being executed. The inconveniences urged by the petitioner, we feel, are totally irrelevant. Further, the petitioner does have a case that he has moved the executing court, seeking some time and the said motion was not considered or wrongly rejected. So, this writ petition is plainly an abuse of the process of the court. Accordingly, it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/